



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Hon. W. H. Turner, County Attorney  
Decatur, Texas

Dear Sir:

Opinion No. 0-3761  
Re: Constitutionality of  
S. B. No. 505, 47th  
Legislature.

In your letter of July 14, 1941 you request our opinion as to whether or not Senate Bill No. 505, Forty-seventh Legislature, is a constitutional and valid law. This Act is a grant to Wise County of one-half the state ad valorem taxes collected in that county for general revenue purposes over a period of ten years beginning September 1, 1941, and it is provided that the monies so delivered to Wise County shall be deposited in the Road and Bridge Warrant Fund of said County. The Commissioners Court is further authorized to issue road and bridge warrants, to be paid out of the proceeds of said grant, and it is further provided that such warrants are to constitute a trust fund to be used "exclusively in acquiring land, laying out, constructing, reconstructing the public road, highways and bridges of said county." Section 5 of said Senate Bill No. 505, reads as follows:

"Sec. 5. The Legislature finds and declares that the floods that have occurred in Wise County, Texas, in the weeks immediately preceding the consideration hereof, have caused such widespread damage and devastation to the public roads, highways and bridges of, as well as to the means of livelihood of many families causing widespread suffering and distress among the inhabitants of such county constitutes, and in effect is, a public calamity of such nature and extent as to authorize and require the grant of aid by the State of Texas to said county in its efforts to repair the damage done and to prevent and to minimize the consequences of a recurrence thereof. \_\_\_\_\_"

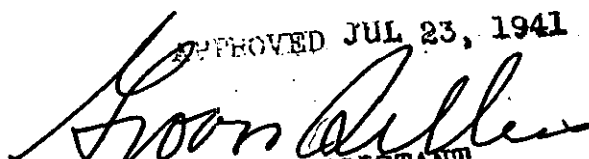
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In view of the holding of the Supreme Court in the case of HARRIS COUNTY FLOOD CONTROL DISTRICT v. MANN, 140 S.W. (2d) 1098, it is our opinion that the findings embodied in Section 5 are conclusive. Up to the present time no grant of aid to a county or counties has been sustained by the courts. This grant will operate to transfer sums of money out of the state ad valorem tax fund into the county road and bridge fund, something which ordinarily would be prohibited by Article 8, Section 9, of the State Constitution. CARROLL v. WILLIAMS, 202 S.W. 504. However, in ARANSAS PASS v. KEELING, 247 S.W. 818, the Supreme Court held that a seawall grant under Article 11, Section 8, of the Constitution, was not subject to Article 8, Section 9, of the State Constitution, and it was also held by the Supreme Court in BRAZOS RIVER, etc. DISTRICT v. McGRAW, 91 S.W. (2d) 665, that a grant made under the calamity clause of Article 8, Section 51, of the Constitution, was not subject to such appropriation provision. We also think that the courts would hold that a grant under authority of the calamity clause of Article 8, Section 51, of the Constitution, would not be subject to the restrictions against the transfer of monies from the state ad valorem tax fund to a county fund, which otherwise might be implied from Article 8, Section 9.

It is our opinion that the Act in question is constitutional and valid.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED JUL 23, 1941  
  
 FIRST ASSISTANT  
 ATTORNEY GENERAL

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By   
 Glenn R. Lewis  
 Assistant.

